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8 **United States District Court**
9 **Central District of California**
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11 NOEMI BAEZA,

12 Plaintiff,

13 v.

14 ASSISTED CREDIT SERVICES, INC.;

15 MEDICAL CLAIM MANAGEMENT;

16 and DOES 1–10, inclusive,

17 Defendants.
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Case No. 8:15-cv-01451-ODW (JCG)

**ORDER STRIKING DEFENDANT
ASSISTED CREDIT SERVICES,
INC.’S ANSWER AND ENTERING
DEFAULT AGAINST ASSISTED
CREDIT SERVICES [10, 33]**

20 On December 15, 2015, Assisted Credit’s counsel, Edward T. Weber, filed a
21 Motion to Withdraw as counsel of record for Assisted Credit. (Mot. to Withdraw,
22 ECF No. 25.) According to Weber, after Assisted Credit retained him and subsequent
23 to the filing of Defendant’s Answer, Assisted Credit terminated their attorney-client
24 relationship. (Weber Decl. ¶¶ 2–3, ECF No. 25.) This Court, with good cause
25 appearing, granted Weber’s Motion and allowed counsel to withdraw (Order Granting
26 Withdrawal 5, ECF No. 29.), despite the fact that Assisted Credit would be without
27 counsel and thus in violation of both local rules and statute. *See* C.D. Cal. R. 83–2.2.2
28 (“Only individuals may represent themselves pro se. No organization or entity of any

1 other kind (including corporations, ...) may appear in any action or proceeding unless
2 represented by an attorney permitted to practice before this Court under L.R. 83–2.
3 1.”); *see also Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council*, 506 U.S.
4 194, 201–02 (1993) (“It has been the law for the better part of two centuries ... that a
5 corporation may appear in the federal courts only through licensed counsel.”); 28
6 U.S.C. § 1654 (“In all courts of the United States the parties may plead and conduct
7 their own cases personally or by counsel as, by the rules of such courts, respectively,
8 are permitted to manage and conduct causes therein.”).

9 The Court, therefore, rescheduled the impending scheduling conference and
10 ordered Assisted Credit to obtain new counsel by February 14, 2016. (Order Granting
11 Withdrawal 5.) The Court also cautioned Defendant that, should it fail to secure
12 counsel, the action could be dismissed or default judgment may be entered. (*Id.*)
13 Assisted Credit failed to obtain counsel by the ordered deadline and, to date, remains
14 unrepresented. (Mot. 2–3.)

15 As part of a court’s inherent equitable powers, a court may strike an answer and
16 enter default, and even default judgment, against a party as a sanction. *See, e.g.,*
17 *Dreith v. Nulmage, Inc.*, 648 F.3d 779, 788 (9th Cir. 2011); *Adriana Int’l Corp. v.*
18 *Thoeren*, 913 F.2d 1406, 1412 (9th Cir. 1990); *Televideo Sys., Inc. v. Heidenthal*, 826
19 F.2d 915, 916 (9th Cir. 1987) (per curiam). Before doing so, however, a court must
20 consider five factors: (1) the public’s interest in expeditious resolution of litigation;
21 (2) the court’s need to manage its docket; (3) the risk of prejudice to the other party;
22 (4) the public policy favoring the disposition of cases on their merits; and (5) the
23 availability of less drastic sanctions. *Adriana Int’l*, 913 F.2d at 1412.

24 Here, the Court finds that the public interest in expeditious resolution of
25 litigation and the Court’s need to manage its docket weigh heavily in favor of striking
26 Assisted Credit’s Answer and entering default. The claims against Assisted Credit
27 cannot move forward without new counsel, and Assisted Credit has been given ample
28 time to find counsel. Not only did Assisted Credits’s former counsel advise his client

1 repeatedly of the representation requirement before seeking to withdraw, but this
2 Court afforded Assisted Credit additional time to seek counsel after withdrawal.

3 The Court also finds that Assisted Credit's failure to obtain new counsel has
4 prejudiced Plaintiff Baeza by not only delaying this litigation, but making it
5 impossible for her to obtain a decision on the merits. Less drastic sanctions are
6 simply not available. While the public policy favoring disposition of the case on its
7 merits will always cut against striking the answer and entering default, the four other
8 factors strongly support the result.

9 For these reasons, the Court *sua sponte* **STRIKES** Assisted Credit's Answer.
10 (ECF No. 10.) The Court also **ENTERS DEFAULT** against Assisted Credit. While
11 Plaintiff has already filed a Motion for Default Judgment (ECF No. 31), the Court
12 finds that Motion premature and requests that Plaintiff **refile the Motion on or before**
13 **May 16, 2016**. The Court will then take the matter under submission, and no hearing
14 will be held.

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16 **IT IS SO ORDERED.**

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18 May 5, 2016

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21 **OTIS D. WRIGHT, II**
22 **UNITED STATES DISTRICT JUDGE**
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